IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 6TH DECEMBER 2007 / 15TH AGRAHAYANA 1929

Crl.MC.No. 3659 of 2007()

CC.225/2005 of JUDL.MAGISTRATE OF FIRST CLASS COURT-III, PALAKKAD

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PETITIONER: ACCUSED 5 & 6:

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1. RAMATHEERTHAN, S/O.MADHAVAN,
   PARUVAYAPPAN CHALLA, EDUPPUKULAM P.O.,
   MENONPARA, PALAKKAD TALUK.

2. UMADEVI D/O.MADHAVAN,
   P.N.CHALLA, EDUPPUKULAM P.O.,
   MENONPARA, PALAKKAD TALUK.

BY ADV. SRI.RAJESH SIVARAMANKUTTY

RESPONDENTS:

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1. STATE OF KERALA REPRESENTED BY
   THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM,

2. KAVITHA, AGED 28 YEARS,
   ECHANPURAYIL, KUNDALASSERY AMSOM,
   KONGAD, PALAKKAD TALUK.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 06/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3659 of 2007

Dated this the 6th day of December 2007

O R D E R

The petitioners have been summoned to appear in a prosecution under Section 494 I.P.C as accused 5 and 6. They are admittedly sister and brother respectively of the first accused. The first accused has admittedly married the complainant. While that marriage subsists, he is alleged to have married the seventh accused. The other accused including the petitioners herein had allegedly abetted the commission of the offence punishable under Section 494 I.P.C by the first and seventh accused. The petitioners have received summons to appear before the learned Magistrate. They have rushed to this court with the plea that proceedings against them are liable to be quashed invoking the extraordinary inherent jurisdiction under Section 482 Cr.P.C.

2. What is the ground? The learned counsel for the petitioners first of all contends that the accused persons shown as accused 5 and 6 are one Sreedevi and Rajesh whereas the petitioners are known by the name Ramatheerthan and Umadevi. They have admittedly received summons Annexures B and C wherein they are correctly described.

3. It is now for the petitioners to appear before the learned Magistrate and raise a contention, if they want to raise such contention, that they are not the persons arrayed as accused 5 and 6. If such contention is raised, needless to say, the learned Magistrate must consider the same and pass appropriate orders on merits.

4. It is next contended that the precise manner in which the petitioners had abetted the commission of the offence under Section 494 I.P.C is not pleaded in the complaint and for that reason the complaint is liable to be quashed.

5. I shall not embark on a detailed discussion. Suffice it to say that I have perused paragraphs 2 and 4 of the complaint. I am unable to agree that there is any such inadequacy in the pleadings which can now justify the invocation of the jurisdiction under Section 482 Cr.P.C, which jurisdiction, it is now trite, is to be invoked only sparingly and in an exceptional case and that too only in aid of justice. I find no reason whatsoever to invoke the powers under Section 482 Cr.P.C to quash the proceedings against the petitioners herein.

6. This Criminal Miscellaneous Case is accordingly dismissed.

(R.BASANT, JUDGE)

jsr // True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007